

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

FAB-TECH, INC.	:	
	:	
V.	:	
	:	CIVIL NO. 1:04CV275
E.I. DU PONT DE NEMOURS	:	
AND COMPANY	:	
_____	:	

RULING ON MOTION TO AMEND JUDGMENT PURSUANT TO RULE 59(e)
(Paper 174)

The plaintiff asks the Court to amend its judgment to add prejudgment interest to the jury's award of compensatory damages in the amount of \$1.3 million rendered on April 13, 2007. In addition to compensatory damages, the jury awarded the plaintiff \$1 million in punitive damages.

Under Vermont law, "[p]rejudgment interest may be awarded as damages for detention of money due for breach or default."

Newport Sand & Gravel Co. v. Miller Concrete Constr., Inc., 159 Vt. 66, 71 (1992). Such an award is only made, however, "when the principal sum recovered is liquidated or capable of ready ascertainment and may be awarded in the court's discretion for other forms of damage." Id.

The evidence at trial indicated the amount of damages at issue was subject to considerable uncertainty and dispute. Furthermore, the jury's award appears just in that it adequately compensates the plaintiff. See Agency of Natural Res. v. Glens Falls Ins. Co., 169 Vt. 426, 435 (1999) (court may use its

discretion to award prejudgment interest "to avoid injustice").

In light of the complicated and conflicting evidence at trial and the award of substantial punitive damages, "any determination of prejudgment interest would be speculative and unreasonable."

J.A. McDonald, Inc. v. Waste Sys. Int'l Moretown Landfill, Inc.,
247 F. Supp. 2d 542, 548 (D. Vt. 2002).

The Motion to Amend Judgment is DENIED.

SO ORDERED.

Dated at Brattleboro, Vermont, this 26th day of June, 2007.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge